THE HON'BLE Mr. JUSTICE N.V. RAMANA

Writ Petition No.4357 of 2000

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Dated: January 30, 2006

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Between:

M. Venkateswarlu, S/o. late M. Venkata Swamy

aged 50 years, OCC: Sharmik, Charmavaram

Depot, APSRTC, Dharmavaram, Anantapur District.

… Petitioner.

And

The Commissioner of Labour, A.P.

Anjaiah Bhavan, Hyderabad, and another.

… Respondents

Order:

This writ petition has been filed seeking Mandamus declaring the action of Respondent No.2 in not numbering the Claim Petition of the petitioner filed under Workmen's Compensation Act, 1923 (for short 'the Act') as arbitrary and illegal, and for a consequential direction to Respondent No.2 to number the said Claim Petition,

without insisting upon filing of the FIR pertaining to the accident occurred on 11-04-1996.

2. Petitioner, a driver in the respondent-Corporation, while working in Kalyandurg Depot, was entrusted with a bus on route Kalyandurg to Nellore. It is stated that while he was driving the bus, the bus met with an accident near Proddatur in Cuddapah District on 11-04-1996 at about 11.45 P.M. and due to the accident, he received injuries to his left eye and lost vision and his face was also severely disfigured. It is further stated that the Depot Manager, APSRTC, Kalyandurg, submitted Accident Reports prescribed under Section 10-B of the Act, to the authorities and an entry was made in the General Diary of the P.S. Chapadu, Cuddapah District, about the accident. Petitioner states that he served a notice of accident upon the Depot Manager, APSRTC, Kalyandurg, seeking compensation under the Act, but it is alleged that no steps have been taken to pay the compensation. It is further stated that the petitioner was declared unfit for the post of Driver and now he is working as Shramik in Dharmavaram Depot. It is further stated that petitioner filed a Claim Petition under the Act before Respondent No.2 in September, 1997, but the office of Respondent No.2 returned the papers on 30-11-1999 calling upon the petitioner to furnish certified copy of the FIR pertaining to the accident as per the instructions of the Commissioner of Labour, vide memo dated 24-04-1998. The petitioner's case is that since the SHO, Chapadu Police Station did not issue the FIR, he could not file it before Respondent No.2; hence Respondent No.2 ought not to have insisted a copy of the FIR.

3. Even though the writ petition is of the year 2000, no counter affidavit has been filed. However, the learned Government Pleader submitted that in fact a circular dated 24-04-1998 has been issued by the Commissioner of Labour to prevent bogus cases. As per the circular instructions, the certified copy of the FIR has to be filed for numbering the Claim Petition under the Act. In the present case, an entry was made in the General Diary of the P.S. Chapadu, Cuddapah District, about the accident, which would serve the purpose.

4. Though FIR has not been issued, but having regard to the fact that the incident was recorded in the General Diary of Chapadu Police Station, I deem it appropriate to dispose of the writ petition with the following directions. -

The respondents shall consider the representation of the petitioner and number the Claim Petition basing on the G.D. entries made in P.S. Chapadu, Cuddapah, and dispose of the same, in accordance with law, without referring to the said instructions given by the authority.

5. The writ petition is disposed of with the above directions. No costs.

N.V. RAMANA, J.

January 30, 2006

MRR